

**REMARKS**

Applicants submit this amendment in response to the non-final Office Action mailed April 2, 2007. Claims 15-28 are currently pending, of which claims 15, 20, and 21 are independent. In this response, Applicants have amended each of the independent claims 15, 20, and 21. Support for these amendments may be found, for example, at page 5, lines 16-19.

The Examiner rejected claims 15, 20, and 21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,722,588 ("Priaroggia") in view of U.S. Patent Application Publication 2001/0051030 ("Hofner"). The Examiner rejected claims 16-19 and 23-26 under 35 U.S.C. § 103(a) as being unpatentable over Priaroggia in view of Hofner and further in view of U.S. Patent No. 6,351,589 ("Leggett"). Finally, the Examiner rejected claims 22, 27, and 28 under 35 U.S.C. § 103(a) as being unpatentable over Priaroggia in view of Hofner and further in view of U.S. Patent No. 4,657,343 ("Oldham"). Applicants respectfully traverse the pending rejections for at least the reasons discussed below.

**35 U.S.C. § 103(a) Rejections of Independent Claims 15, 20, and 21**

Applicants respectfully traverse the 35 U.S.C. § 103(a) rejections of independent claims 15, 20, and 21 as being unpatentable over Priaroggia in view of Hofner. A *prima facie* case of obviousness has not been established. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See M.P.E.P. § 2142, 8th Ed., Rev. 5 (August 2006). Moreover, "in formulating a rejection under 35 U.S.C. § 103(a) based upon a combination of prior art elements, it remains necessary to identify the reason why a

person of ordinary skill in the art would have combined the prior art elements in the manner claimed.” USPTO Memorandum from Margaret A. Focarino, Deputy Commissioner for Patent Operations, May 3, 2007, page 2.

Representative independent claim 15, as amended, calls for a combination including, for example, “the strength member and the optical fibers in said joint section being embedded into and completely encapsulated by a cured polymeric material.” Priaroggia and Hofner, whether taken alone or in combination, fail to teach or suggest at least optical fibers embedded in and completely encapsulated by a cured polymeric material, as claimed. Accordingly, the combined teachings of Priaroggia and Hofner cannot render obvious Applicants’ amended independent claim 15.

In the Office Action, the Examiner apparently acknowledges that Priaroggia fails to teach or suggest at least “the strength member and the optical fibers in said joint section being embedded into and completely encapsulated by a cured polymeric material,” as claimed.<sup>1</sup> Office Action dated April 2, 2007, p. 2 (“Priaroggia does not teach expressly the polymeric material directly embedding the fibers.”) Indeed, Priaroggia discloses a joint section having tubes 10 or grooves 23 that are filled with a substantially incompressible fluid surrounding loosely-received optical fibers 9 or 26. Priaroggia, FIG. 1 (tubes 10 containing loosely-received fibers 9); FIG. 2 (grooves 23 containing loosely-received fibers 26); col. 3, ll. 18-22; col. 4, ll. 36-51; col. 5, ll. 17-29. Because the fibers in Priaroggia are loosely-suspended in a fluid, they are not

---

<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

“completely encapsulated by a cured polymeric material,” as recited in Applicants’ amended independent claim 15.<sup>2</sup>

Hofner suffers the same deficiency as Priaroggia. Specifically, Hofner discloses optical fibers 12 that are surrounded by a gel within a buffer tube 10. See Hofner, ¶ 0028 (“the optical fibers 12, surrounded by a gel, being embedded in the buffer tube 10”). Although the buffer tube 10 in Hofner apparently contains a polymeric material (see *id.*, “[t]he buffer tube in this case contains PBT”), the optical fibers 12 are completely encapsulated by a gel, and not by a cured polymeric material. As such, Hofner fails to teach or suggest “the strength member and the optical fibers in said joint section being embedded into and completely encapsulated by a cured polymeric material,” as recited in amended claim 15.

Applicants urge that the pending Section 103 rejection of Applicants’ amended independent claim 15 over Priaroggia and Hofner should be removed, since these cited references, whether taken alone or in any reasonable combination, cannot teach or suggest at least “the strength member and the optical fibers in said joint section being embedded into and completely encapsulated by a cured polymeric material” as claimed. Applicants further submit that amended independent claims 20 and 21, although different in scope, recite language similar to amended independent claim 15 and are thus also allowable for at least the same reasons.

---

<sup>2</sup> In the Office Action, the Examiner appears to incorrectly suggest that FIG. 2 in Priaroggia shows “a thermoplastic polymeric material (21, 22). . . surrounding the fibers (26).” Office Action, p. 2. Rather, FIG. 2 of Priaroggia shows that the optical fibers 26 are actually surrounded by an incompressible fluid within grooves 24, 25 of the polymeric material. As such, the fibers are completely encapsulated by the fluid, and not by the polymeric material.

**35 U.S.C. § 103(a) Rejections of Dependent Claims 16-19 and 22-30**

Claims 16-19 and 22-28 depend on independent claims 15 or 21 and are therefore allowable for at least the same reasons discussed above.

**Conclusion**

The preceding remarks are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding remarks in favor of patentability are advanced without prejudice to other bases of patentability.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: July 2, 2007

By: 

Stephen E. Kabakoff  
Reg. No. 51,276  
(404) 653 6477